

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PERSONAL AUDIO, LLC

Plaintiff,

v.

TOGI ENTERTAINMENT, INC., et al

Defendants.

CIVIL ACTION NO. 2:13-cv-00013

CONSOLIDATED ACTION

AGREED ORDER

Before the Court is the Agreed Motion to Dismiss Claims Involving Defendants Lotzi Digital, Inc. (“Lotzi”) and A Partnership Consisting of Adam Carolla, Donny Misraje, Kathee Schneider-Misraje, Sandy Ganz and Does 1-10, Inclusive dba “Ace Broadcasting” and/or “Carolla Digital” (“Partnership”) (collectively “Defendants”). Finding the motion well taken, the Court hereby GRANTS the motion.

IT IS ORDERED THAT Plaintiff’s claims against Defendants Lotzi and the Partnership are hereby dismissed WITHOUT prejudice. IT IS FURTHER ORDERED THAT the counterclaims asserted against Plaintiff Personal Audio, LLC by Defendants are hereby dismissed WITHOUT prejudice.

The Court further Orders as follows:

1. Lotzi and the Partnership may not file a declaratory judgment action against Personal Audio with respect to the causes of action asserted by Plaintiff in this litigation.
2. With the exception of the press release announcing the settlement that has been approved by the Court, Personal Audio, Lotzi and the Partnership shall not make any public statements, issue any press releases or otherwise issue public comments (e.g., by providing an interview to a reporter) concerning this litigation from August 15, 2014 through September 30,

2014 (“Quiet Period”). In response to any media inquiries received during the Quiet Period, it shall be permissible for the parties to either: (1) refer any person making such an inquiry to this order (or to the motion that corresponds to this Order); or (2) say/write “no comment.”¹ In addition, the parties may post this Order (and any motion corresponding to this Order), and the press release announcing this settlement that has been approved by the Court to their respective websites. Further, nothing in this motion shall be construed to prevent either any party or witness from testifying in a deposition, trial or other judicial proceeding or any attorney associated with a party from referring to the litigation in any deposition, trial or other judicial proceeding (e.g., in an opening statement, or other argument).

3. This Court shall retain jurisdiction to enforce the terms of this Order.

IT IS FURTHER ORDERED THAT each party bear its own costs and fees. The Clerk of Court is directed to terminate case 2:13-cv-000014.

SIGNED this 18th day of August, 2014.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE

¹ Activity that pre-dates the Quiet Period shall not violate this requirement. For example, neither statements made in any podcasts that were recorded prior to August 15, 2014 nor articles with quotes based on interviews that took place prior to August 15, 2014 will violate this provision. In addition, none of the parties are under any obligation to remove content from any of their website(s) that was posted prior to August 15, 2014.